

Clarissa Colmer

09/22/2005

<p>1 group in the engine division only.</p> <p>2 Q. Okay. And you replaced Mr. Warner?</p> <p>3 A. Correct.</p> <p>4 Q. When did Caterpillar decide to stop reimbursing</p> <p>5 for flywheel house and flywheel house bolt</p> <p>6 repairs on Trans-Spec trucks?</p> <p>7 A. From my discussions with the people I named</p> <p>8 earlier, I'm of the understanding that it was</p> <p>9 mid 2003.</p> <p>10 Q. What is Caterpillar Extended Service Coverage</p> <p>11 Plus?</p> <p>12 A. Extended Service Coverage Plus is a coverage</p> <p>13 program that is a purchased program that covers</p> <p>14 specific components for defects in Caterpillar</p> <p>15 material and workmanship for a specific amount</p> <p>16 of time as noted on the contract.</p> <p>17 Q. What entity offered Trans-Spec the extended</p> <p>18 service coverage?</p> <p>19 A. Who offered them this extended service</p> <p>20 coverage?</p> <p>21 Q. Yes.</p> <p>22 A. I'm not sure if it was the Caterpillar -- I</p> <p>23 don't -- I don't know exactly who offered it to</p>	Page 14	<p>1 extended service coverage plan?</p> <p>2 MR. GRUNERT: Object to the form and also</p> <p>3 beyond the scope of the notice.</p> <p>4 You can answer it if you're able to do</p> <p>5 that on your personal knowledge.</p> <p>6 But that's not within the scope of</p> <p>7 anything she was asked to testify about.</p> <p>8 MR. SAMITO: Well --</p> <p>9 MR. GRUNERT: She hasn't prepared herself.</p> <p>10 MR. SAMITO: -- what we're getting into IS</p> <p>11 compliance at issue here.</p> <p>12 MR. GRUNERT: You can answer if you can</p> <p>13 answer based on personal knowledge. It's</p> <p>14 beyond the scope of the notice.</p> <p>15 A. Repeat the question, please.</p> <p>16 Q. Why does Caterpillar offer customers the</p> <p>17 extended service coverage plan?</p> <p>18 A. Because the marketplace asked for a coverage</p> <p>19 plan in addition to what's available under</p> <p>20 standard warranty, but it is not -- it's an</p> <p>21 option, it's not something that everybody</p> <p>22 participates in.</p> <p>23 Q. Is it offered to all Caterpillar customers?</p>	Page 16
<p>1 them specifically.</p> <p>2 Q. Does Caterpillar offer this program or is it</p> <p>3 something that's offered by local Caterpillar</p> <p>4 dealers, such as --</p> <p>5 A. Caterpillar has the program available.</p> <p>6 Q. -- Southworth Milton?</p> <p>7 MR. GRUNERT: I should probably object to</p> <p>8 the form because I think the witness is</p> <p>9 struggling with your use of the word "offered".</p> <p>10 In the sense of who's the contracting</p> <p>11 entity or --</p> <p>12 MR. SAMITO: I'm going to get to that.</p> <p>13 BY MR. SAMITO:</p> <p>14 Q. I want to know first off who offered the</p> <p>15 extended service coverage to Trans-Spec.</p> <p>16 MR. GRUNERT: I object to the form.</p> <p>17 A. I guess if you would clarify "offered"?</p> <p>18 Q. Who contacted Trans-Spec and said would you</p> <p>19 like to participate in this program?</p> <p>20 A. I do not know who specifically made that.</p> <p>21 Q. Is it a Caterpillar program?</p> <p>22 A. It's a Caterpillar program.</p> <p>23 Q. Why does Caterpillar offer customers the</p>	Page 15	<p>1 A. It is available for purchase by any Caterpillar</p> <p>2 user owner.</p> <p>3 Q. So anybody could purchase it?</p> <p>4 A. If they own a Caterpillar engine. And -- and</p> <p>5 there's a coverage program available for</p> <p>6 purchase.</p> <p>7 Q. Does Caterpillar have to make any determination</p> <p>8 as to which customers to offer the extended</p> <p>9 service coverage plan to?</p> <p>10 A. It's -- it's a publicly available program,</p> <p>11 anyone is available to purchase and</p> <p>12 participate.</p> <p>13 Q. Are you aware of any conferences that were held</p> <p>14 between Harry Calderbach(ph) and Chad Bixby in</p> <p>15 terms of determining whether to offer the</p> <p>16 extended service coverage plan?</p> <p>17 A. No, I am not.</p> <p>18 Q. Did Caterpillar offer it on several 3176</p> <p>19 engines purchased by Trans-Spec in the mid</p> <p>20 1990's?</p> <p>21 A. I am not aware of that information.</p> <p>22 Q. Do you know if Caterpillar offered it and</p> <p>23 Trans-Spec accepted as to any of Trans-Spec's</p>	Page 17

EXHIBIT

Tables



	Page 50		Page 52
1	warranty at the same time.	1	A. No, I did not.
2	(Whereupon a discussion was held	2	Q. You didn't do any research into that area to
3	off the record.)	3	prepare for this 30(b)(6) deposition, did you?
4	BY MR. SAMITO:	4	MR. GRUNERT: No, because it was beyond
5	Q. When did you first learn of claims coming in	5	the scope of the notice.
6	regarding flywheel housing or flywheel housing	6	BY MR. SAMITO:
7	bolt failures on the c-12?	7	Q. Do you know why Caterpillar decided to stop
8	MR. GRUNERT: Object; beyond the scope of	8	reimbursing for flywheel housing and flywheel
9	the notice.	9	housing bolts failures on Trans-Spec's C-12s?
10	Answer if you can from personal knowledge.	10	A. In my discussion with Rob Smith and Brad
11	A. I'm not specifically aware of the date. I'm	11	Bowdoin, I understand that they made the
12	not aware of a specific date.	12	decision that these repairs should no longer be
13	Q. Did you ever learn that there were claims	13	covered.
14	coming in on flywheel housing and flywheel	14	Q. Why?
15	housing bolts on the C-12?	15	A. Because they felt it was not a failure in CAT
16	A. No.	16	material or workmanship, it was not a defect of
17	Q. You never heard that?	17	the Caterpillar material or workmanship.
18	A. Not until this came up.	18	Q. Who did they consult with when they came to
19	Q. When did you first learn about Trans-Spec's	19	that decision?
20	problems?	20	A. I understand that that information was
21	A. In this situation. The date, I'm sorry, I	21	communicated back to the CAT dealer.
22	don't remember the date. Recently.	22	Q. I'm asking who did they communicate with when
23	Q. Within the last six months?	23	they made the decision? Did they speak with
	Page 51		Page 53
1	A. Correct.	1	any Caterpillar engineers? Did they speak with
2	Q. Did Caterpillar stop reimbursing under warranty	2	a 6 Sigma team? Did they make this decision on
3	for extended service coverage for flywheel	3	their own?
4	housing and flywheel housing bolt repairs on	4	A. I understood product health was involved, Brad
5	C-12s owned by a company other than Trans-Spec?	5	Bowdoin. I do not know specifically who else
6	A. I'm not aware of our specific actions.	6	he worked with in making that determination.
7	MR. GRUNERT: I object, it's beyond the	7	Q. What were the communications that they had with
8	scope.	8	Brad Bowdoin?
9	Q. Well, what I'm trying to get at is, is	9	A. I understand that they reviewed the detail with
10	Trans-Spec the only company that you stopped	10	Brad, shared technical information with him,
11	reimbursing flywheel housing and flywheel	11	shared the service history with him.
12	housing bolts for?	12	Q. Who is Brad Bowdoin?
13	A. I have not looked at the data regarding	13	A. At that time he was a product health -- product
14	flywheel housing repairs and claims to see what	14	health engineer. I'm not specific on his job
15	was paid or not paid.	15	title.
16	Q. As head of the warranty claim department for	16	Q. Was he an engineer?
17	on-truck engines, do you know?	17	A. I do not know if engineer was in his title.
18	A. That is not something that I get into the	18	Q. Do you know if he even has an engineering
19	detail on.	19	degree?
20	Q. Never heard anything about C-12 flywheel	20	A. I do not know if he has an engineering degree.
21	housing and flywheel housing bolts warranty	21	Q. Has he ever served as an engineer?
22	claims and that Caterpillar decided to stop	22	A. I'm not exactly clear if he's an engineer or if
23	reimbursing?	23	he did engineering functions. He was in

<p>1 product health.</p> <p>2 Q. Are either of the two gentlemen who made the</p> <p>3 decision to stop reimbursing for Trams-Spec's</p> <p>4 problems, are either of them engineers?</p> <p>5 A. I do not know.</p> <p>6 Q. Is there any documents that were looked at when</p> <p>7 Caterpillar made this decision to stop</p> <p>8 reimbursing for Trans-Spec's --</p> <p>9 A. I am not aware of what documentation was</p> <p>10 provided between the district office and</p> <p>11 product health.</p> <p>12 Q. Did you ask in preparation for this Rule</p> <p>13 30(b)(6) deposition?</p> <p>14 A. I'm not -- I don't recall exactly if they</p> <p>15 looked at iron, I do know they looked at repair</p> <p>16 history.</p> <p>17 Q. Was the decision to stop reimbursement for</p> <p>18 Trans-Spec's flywheel housing and flywheel bolt</p> <p>19 failures on C-12 engine a specific decision as</p> <p>20 to Trans-Spec or was it part of a larger</p> <p>21 Caterpillar policy on this issue?</p> <p>22 A. I understand from visiting with Brad Bowdoin</p> <p>23 and Rob Smith that the conditions surrounding</p>	<p>Page 54</p> <p>1 6 Sigma team for guidance on this issue?</p> <p>2 A. Who are you referring to as anyone?</p> <p>3 Q. Anyone from the warranty claims department.</p> <p>4 A. I'm not aware of anyone within the warranty</p> <p>5 department who contacted the 6 Sigma team.</p> <p>6 What -- what date are you --</p> <p>7 Q. At any time regarding Trans-Spec's flywheel</p> <p>8 housing or flywheel housing bolt failures.</p> <p>9 A. I'm not aware of any direct conversation</p> <p>10 regarding Trans-Spec and flywheel housing</p> <p>11 failures and the 6 Sigma team.</p> <p>12 Q. Can you give me the positions of the two</p> <p>13 gentlemen who decided to stop reimbursing for</p> <p>14 Trans-Spec's flywheel housing and flywheel</p> <p>15 housing bolt failures?</p> <p>16 A. Brad Bowdoin, he was in product health. I'm</p> <p>17 not sure what his specific title was at the</p> <p>18 time.</p> <p>19 Q. And who was the other person?</p> <p>20 A. I believe he was the primary person that was</p> <p>21 involved. I do not know who else he'd involved</p> <p>22 in making that decision other than the field</p> <p>23 rep was Rob Smith.</p>
<p>1 the units of Trans-Spec were such that they</p> <p>2 determined that it was not a CAT defect in</p> <p>3 material and workmanship.</p> <p>4 Q. How did they come to that determination?</p> <p>5 A. Through the discussion of the application the</p> <p>6 unit was in. I don't know all the details that</p> <p>7 were shared between them.</p> <p>8 Q. Did you --</p> <p>9 A. But they also looked at the history of the C-12</p> <p>10 in general and that particular failure and</p> <p>11 determined that this was not a problem.</p> <p>12 Q. Was any engineer involved in making that</p> <p>13 determination?</p> <p>14 A. I cannot say. I do not know.</p> <p>15 Q. Was any engineer report involved in making that</p> <p>16 determination?</p> <p>17 A. I do not know.</p> <p>18 Q. Was any 6 Sigma team involved in making that</p> <p>19 determination?</p> <p>20 A. I understand there was a 6 Sigma team. I do</p> <p>21 not recall when it was chartered or when it was</p> <p>22 completed.</p> <p>23 Q. Do you know if anyone contacted anybody in that</p>	<p>Page 55</p> <p>Page 57</p> <p>1 Q. Where was Rob Smith located?</p> <p>2 A. I'm not exactly sure which city he lived in at</p> <p>3 the time. He was the rep in the northeast at</p> <p>4 that time.</p> <p>5 Q. Was he in the Connecticut office?</p> <p>6 A. I do not know which office he was located in.</p> <p>7 Q. Who is Michael Powers?</p> <p>8 A. At that time he was the regional manager of the</p> <p>9 northeast district.</p> <p>10 Q. Was he involved in this decision as well?</p> <p>11 A. I understand he was involved.</p> <p>12 Q. How was he involved?</p> <p>13 A. I understood he -- he spoke with Louis Vachon</p> <p>14 regarding the details of the matter. And</p> <p>15 confirmed with Louis that it was not a</p> <p>16 Caterpillar problem.</p> <p>17 Q. Who is Louis Vachon?</p> <p>18 A. At that time he was the supervisor of the truck</p> <p>19 engine call center.</p> <p>20 Q. Was Mr. Vachon an engineer?</p> <p>21 A. I do not know.</p> <p>22 Q. Did Mr. Vachon speak with any 6 Sigma team in</p> <p>23 coming up with this decision?</p>

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<p>1 A. I do not know who Louis may or may not have 2 spoken to.</p> <p>3 Q. Who else may have been contacted as part of the 4 decision making process to stop reimbursing for 5 Trans-Spec flywheel housing failures and 6 flywheel housing bolt failures?</p> <p>7 A. I'm not sure who else was contacted.</p> <p>8 Q. Were there any documents on this issue?</p> <p>9 A. I am not aware of any document specific to 10 Trans-Spec.</p> <p>11 Q. Any e-mails on this issue?</p> <p>12 A. I'm not aware of any e-mails specific to 13 Trans-Spec.</p> <p>14 Q. Who was the specific person who made the 15 decision to stop reimbursing Trans-Spec for 16 flywheel housing and flywheel housing bolt 17 failures?</p> <p>18 MR. GRUNERT: I'll object to the form.</p> <p>19 A. I'm not exactly sure if there was one person 20 specifically involved. I know Brad Bowdoin had 21 significant input into the decision.</p> <p>22 Q. But there's not one person that you can point 23 to as having the authority to make this</p>	<p>Page 58</p> <p>1 That's the name I've heard has been involved 2 but I don't know if he was the only one who 3 provided information.</p> <p>4 Q. Did anyone ever contact you or anyone else at 5 Caterpillar to inquire about the denial of 6 reimbursement?</p> <p>7 A. I was never contacted regarding the denial of 8 claims for Trans-Spec for flywheel housing --</p> <p>9 Q. Was any --</p> <p>10 A. -- repairs.</p> <p>11 Q. -- one else at Caterpillar contacted?</p> <p>12 A. Was anyone else at CAT contacted for --</p> <p>13 Q. About Trans-Spec's problem either by Trans-Spec 14 or someone calling on Trans-Spec's behalf or 15 communicating on Trans-Spec's behalf via e-mail 16 or fax or letter, phone call?</p> <p>17 A. I do not know. I stated what my understanding 18 is of Rob Smith's involvement, Mike Powers and 19 to a limited degree Al Cardoza. I'm not aware 20 of any other communication.</p> <p>21 Q. Do you know how the decision was communicated 22 to Trans-Spec?</p> <p>23 A. I am not aware of how that was done.</p>
<p>1 decision?</p> <p>2 MR. GRUNERT: Object to the form.</p> <p>3 A. I cannot say that one person made this 4 decision.</p> <p>5 Q. So if I asked you who made the decision --</p> <p>6 A. I know Brad Bowdoin was significantly involved 7 in making the decision.</p> <p>8 Q. Did they make any determination that it was a 9 Sterling problem.</p> <p>10 A. I do not know if they determined what the root 11 cause of the problem was.</p> <p>12 Q. Why did Caterpillar decide to stop providing 13 reimbursement?</p> <p>14 A. Caterpillar determined that it was not a defect 15 in material or workmanship.</p> <p>16 Q. How did they determine that?</p> <p>17 A. Based on the information that was provided from 18 the field from the dealer and looking at the 19 information on all C-12s in the field.</p> <p>20 Q. Who provided the information? You referred to 21 the dealer in the field. Who --</p> <p>22 A. I'm not sure who specifically provided it. I 23 don't know if it was Al Cardoza specifically.</p>	<p>Page 59</p> <p>Page 61</p> <p>1 Q. Did you try to find out pursuant to the Rule 2 30(b)(6) deposition preparation?</p> <p>3 A. I understood the decision was made, the 4 district rep was informed. And beyond that, it 5 was between them and the CAT dealer to 6 communicate that information back to the 7 customer.</p> <p>8 Q. Who was the district rep at the time?</p> <p>9 A. I believe that was Mike -- Rob Smith.</p> <p>10 Q. Did you call Rob Smith to check to prepare for 11 this deposition?</p> <p>12 A. I did have conversation with Rob, but I do 13 not -- I do not believe we spoke specifically 14 as to how the customer was informed of the 15 decision.</p> <p>16 Q. Do you know if Trans-Spec tried to contact 17 Caterpillar in any way to ask about this 18 decision?</p> <p>19 A. I was not contacted by Trans-Spec. I do not 20 know if they tried to contact anyone in 21 Caterpillar.</p> <p>22 Q. Do you know if Al Cardoza called in 23 Trans-Spec's behalf?</p>

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1 EXAMINATION BY MR. GRUNERT:
 2 Q. Ms. Colmer, Mr. Samito asked you the reason why
 3 the people who made the decision that
 4 Trans-Spec flywheel and flywheel housing
 5 failures should no longer be paid under
 6 warranty, what they took into account in making
 7 that decision, and you testified I think to the
 8 effect that they took into account not only
 9 information they had gotten from the dealer
 10 about application, but also the general
 11 performance of C-12 engines or words to that
 12 effect.

13 Can you explain what you mean by that part
 14 of the answer?

15 A. I understood that when they looked at the
 16 failure history on Trans-Spec's units they
 17 looked at the history of flywheels in general
 18 on all C-12s and that there was not a
 19 significant failure rate in relationship to the
 20 failure rate that Trans-Spec was seeing that
 21 was occurring on Trans-Spec units, that the
 22 failure on Trans-Spec's units was significantly

1 greater than the general population of C-12s.
 2 MR. GRUNERT: That's all I have.

3 MR. SAMITO: I have a few more. Possibly
 4 one, we'll see.

6 FURTHER EXAMINATION BY MR SAMITO:

7 Q. Did Caterpillar routinely stop reimbursing
 8 under warranty if it saw a repair that was out
 9 of the ordinary?

10 MR. GRUNERT: Object to the form.

11 A. Caterpillar's decisions to discontinue paying
 12 claims are based upon the fact on whether or
 13 not they deem it as a defect in material or
 14 workmanship.

15 Q. Well, one more I guess. How did the fact that
 16 flywheel housings usually don't break or fail,
 17 how did that play into this decision to stop
 18 reimbursing for Trans-Spec?

19 A. One of the areas that was heavily considered
 20 was the significant failure rate of the -- was
 21 the significant failures of the flywheel
 22 housings on these units, repetitive failures
 23 that did not show up in the general population.

20 (Pages 74 to 77)

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1 Q. Did the people who make the decision consider
 2 that other companies owning C-12 engines had
 3 also had flywheel housing failures and flywheel
 4 housing bolt failures on them?
 5 A. I believe that they looked at the claim history
 6 on the C-12 population when making that
 7 decision.
 8 Q. And is it determinative if a customer of
 9 Caterpillar submits a claim for a relatively
 10 rare failure, is that determinative on whether
 11 or not Caterpillar's going to reimburse?
 12 A. The decision to reimburse is based upon whether
 13 or not the failure is the result of a defect in
 14 CAT material or workmanship.
 15 Q. So the fact of the rate of incidence of the
 16 failure really doesn't matter, does it?
 17 MR. GRUNERT: Object to the form; contrary
 18 to what she testified to.
 19 MR. SAMITO: I'm trying to ask how it
 20 matters but I'm not getting an answer to that
 21 question.
 22 MR. GRUNERT: Can you answer that
 23 question? I object to the form of it.

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1 A. I understand it was due to the repetitive
 2 nature of the failures and the additional
 3 information that they had acquired on these
 4 units that allowed -- that led them to make
 5 that decision.
 6 MR. SAMITO: I have nothing more.
 7 MR. GRUNERT: Thank you, that's all I
 8 have.

10 FURTHER DEPONENT SAYETH NOT